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FACT SHEET

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Procedural Fairness in the California Courts

Building on the momentum generated by the Judicial Council's 2005–2006 public trust and confidence assessment, the branch initiative on procedural fairness is focusing on strategies to ensure that the public perceives the highest standards of fairness and quality treatment in court procedures. The council is committed to enhancing public trust and confidence in the California courts by supporting and promoting the branch policy of achieving procedural fairness in all types of cases.

Background

Research tells us that court user satisfaction with, approval of, and levels of trust and confidence in the courts are more closely linked with fair treatment than with favorable case outcomes. A growing body of national research indicates that public approval and confidence in the courts is linked to the public's sense that court decisions are made through fair processes. These findings build on other research that demonstrates that litigant satisfaction with the overall process and the quality of treatment received leads to the perception that the court's authority is legitimate, which in turn leads to increased compliance with court orders. The Judicial Council's phase I and II public trust and confidence studies, completed in 2005 and 2006, confirm these significant findings.

What is procedural fairness?

Procedural fairness refers to court users' perceptions regarding the fairness and the transparency of the processes by which their disputes are considered and resolved, as distinguished from the outcome of their cases. Perceptions of procedural fairness are also significantly affected by the quality of treatment they receive during every interaction with the court. The perceived fairness of court outcomes is important but is consistently secondary to how court users perceive their cases to have been handled and the quality of treatment they received. Court users' perceptions of procedural fairness are most significantly influenced by four key elements: respect, voice, neutrality, and trust.

Respect

People react positively when they feel they are treated with politeness, dignity, and respect and that their rights are respected. In addition, helping people understand how things work and what they must do demonstrates respect and leads to court user satisfaction.

Voice

People want the opportunity to tell their side of the story, to explain their situation and views to an authority who listens carefully.

Neutrality

People are more likely to accept court decisions when those in authority act with fairness and neutrality (i.e., users have been treated equally, and legal principles and assistance from court personnel were consistent). Users also respond more positively to court decisions when the importance of facts are emphasized and the reasons for a decision have been clearly explained.

Trust

People observe behavior or look for actions to indicate that they can trust the character and sincerity of those in authority and that those in authority are aware of and sincerely concerned with their needs (e.g., they look for conduct that is benevolent and caring).

Current efforts

A resource guide for the courts on procedural fairness is being developed to include effective strategies and techniques, tools for judges and court staff, and programs and best practices readily adaptable to court environments. Guided by the strategic goals of the branch, the resource guide will have a Web and print presence and will contain recommendations to help the courts achieve procedural fairness. The guide, to be released in September 2009, is being designed to support the objectives and desired outcomes contained in the current operational plan of the judicial branch. These outcomes include implementation of policies and programs that help achieve procedural fairness, enhance the court user experience, and strengthen public trust and confidence.

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Additional resources:

For additional information, a Web site has been established to feature model court programs regarding procedural fairness, provide additional resources and articles, and highlight the goals and ongoing work of the initiative. It is located at www.courtinfo.ca.gov/programs/profair

The phase I and phase II public trust and confidence documents are available at www.courtinfo.ca.gov/reference/4_37pubtrust.htm

Justice in Focus: The Strategic Plan for California's Judicial Branch, 2006–2012 contains policies that directly reference procedural fairness and focus on enhancing the court user experience. The plan is available at www.courtinfo.ca.gov/reference/documents/strategic_plan_2006-2012-full.pdf

The Operational Plan for California's Judicial Branch, 2008–2011, sets forth specific objectives and desired outcomes for achieving the goals stated in *Justice in Focus*, including objectives and outcomes related to procedural fairness. The plan is available at www.courtinfo.ca.gov/reference/documents/2008_operational_plan.pdf